

### **REMARKS**

In the June 1, 2009 Office Action, claims 4 and 18 stand rejected in view of prior art, while claims 10-17 were indicated as containing allowable subject matter. Claims 1-3, 5-9 and 19-22 were withdrawn from further consideration. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

In response to the June 1, 2009 Office Action, Applicant has rewritten claim 10 in independent form to accept the allowable subject matter. Applicant wishes to thank Examiner Pham for this indication of allowable subject matter and the thorough examination of this application. Also, Applicant has rewritten claim 18 in independent form, and amended dependencies of claims 5-9 so that these claims depend from independent claim 18. Moreover, Applicant has canceled claims 1-4 and 19-22. Thus, claims 5-18 are pending, with claims 10 and 18 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Election of Species***

In numbered paragraphs 1 and 2 of the Office Action, Applicant's election without traverse in the reply filed on April 27, 2009 was acknowledged. Thus, non-elected claims 1-3, 5-9 and 19-22 were withdrawn from further consideration. Applicant has canceled non-elected claims 1-3 and 19-22 in this Amendment. However, Applicant respectfully requests that non-elected claims 5-9 be rejoined in this application upon allowance of a generic or linking claim, or claims. Specifically, non-elected claims 5-9 have been amended to depend from the generic claim 18, which is believed to be allowable over the prior art of record for the reasons set forth below.

***Rejections - 35 U.S.C. § 102***

In numbered paragraphs 3 and 4 of the Office Action, claim 4 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,110,257 to Hibner et al. (hereinafter “Hibner et al. patent”). In response, Applicant has canceled independent claim 4 in this Amendment. Thus, Applicant believes this rejection is now moot. Withdrawal of the rejection is respectfully requested.

***Rejections - 35 U.S.C. § 103***

In numbered paragraphs 5 to 7 of the Office Action, claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the Hibner et al. patent in view of U.S. Patent Application Publication No. 2004/0149511 to Shimizu et al. (hereinafter “Shimizu et al. publication”). Applicant respectfully traverses the rejection for the following reasons. Claim 18 has been rewritten in independent form in this Amendment.

More specifically, Applicant respectfully asserts one of ordinary skill in the art having common sense would not have considered it obvious to combine the teachings of the Hibner et al. patent and the Shimizu et al. patent as asserted by the Office Action. The Shimizu et al. publication discloses a ***rotation torque sensor*** for a ***power steering apparatus***. On the other hand, the Hibner et al. patent discloses the ***gas turbine engine*** used to propel an aircraft (i.e., the jet engine) (see, column 4, lines 59-61 of the Hibner et al. patent). The Office Action asserts it would have been obvious to modify the system of the Hibner et al. patent with a reduction gear and a case containing the reduction gear as taught by Shimizu et al. patent ***to accurately detect amount and direction of rotational torque*** acting on the rotation shaft. However, Applicant believes there is no need to detect the direction of rotation in the jet engine since the rotation direction of the jet engine is usually constant. Accordingly, there is ***no apparent reason*** to combine the references to obtain the claimed arrangement.

Under U.S. patent law, the mere fact that the prior art can be modified does **not** make the modification obvious, unless an **apparent reason** exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." Id. at 1741. The current record **lacks** any apparent reason, suggestion or expectation of success for combining the patents to create Applicant's unique arrangement of the system recited in claim 18.

Therefore, Applicant respectfully requests that this rejection be withdrawn in view of the above comments.

***Allowable Subject Matter***

In numbered paragraphs 8 and 9 of the Office Action, claims 10-17 were indicated as containing allowable subject matter. Applicant wishes to thank Examiner Pham for this indication of allowable subject matter and the thorough examination of this application. In response, Applicant has amended claim 10 to place this claim in independent form. Thus, independent claim 10 and its dependent claims 11-17 are believed to be allowable.

\* \* \*

In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 5-18 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

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Respectfully submitted,

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